

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

DRIVE PLANNING, LLC, and
RUSSELL TODD BURKHALTER,

Defendants,

and

JACQUELINE BURKHALTER,
THE BURKHALTER RANCH
CORPORATION, DRIVE
PROPERTIES, LLC, DRIVE
GULFPORT PROPERTIES LLC,
and TBR SUPPLY HOUSE, INC.,

Relief Defendants.

Civil Action No.
1:24-cv-03583-VMC

ORDER

Before the Court is the Receiver's Motion for Turnover of and Imposition of Constructive Trust on Real Property Traceable to Drive Planning, LLC (Doc. 98). The Receiver is directed to file a supplemental brief addressing the following questions: (1) Under applicable law, can the Receiver enforce a constructive trust in favor of investors and against transferees of traceable investor funds based

solely on harm to investors rather than harm to the Receivership Defendant?
See Isaiah v. JPMorgan Chase Bank, 960 F.3d 1296, 1306 (11th Cir. 2020)
("Although a receivership is typically created to protect the rights of creditors,
the receiver is not the class representative for creditors and cannot pursue claims
owned directly by the creditors."); *accord Wiand v. ATC Brokers Ltd.*, 96 F.4th
1303, 1310 (11th Cir. 2024). (2) In the alternative, can the Receiver's request to
enforce a constructive trust against Mark Haye, as trustee of the Mark Haye
Living Trust, be justified based on unjust enrichment of Mr. Haye at the
expense of the Receivership Defendant? If so, does the Court need to receive
evidence on the fair market value of the unsecured Promissory Note?

The Receiver's brief must be filed no later than June 4, 2025, must be no more
than 10 pages in length, and must be served on Mr. Haye. Mr. Haye and any
interested parties may file a responsive brief, no more than 10 pages in length,
within 14 days of being served with the Receiver's brief.

SO ORDERED this 21st day of May, 2025.



Victoria Marie Calvert
United States District Judge